



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,904	04/30/2001	Noel Morel	34232-PCT-USA-A-070337.02	3706

21003 7590 12/24/2002

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

KNABLE, GEOFFREY L

ART UNIT	PAPER NUMBER
----------	--------------

1733

DATE MAILED: 12/24/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/845,904

Applicant(s)

MOREL, NOEL

Examiner

Geoffrey L. Knable

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 6-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6 and 7 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Doherty (US 2,706,833).

Doherty discloses an article of vulcanized rubber that includes two different rubber mixes (e.g. different color) – i.e. the inlay “18” and remainder of the boot wall “30”. Further, the two pieces come together in a lap joint by virtue of the beveled edge “25” of the inlay. Also, the star shape of the inlay (fig. 1) is considered to define edges that are in the form of an oscillatory trace line in the plane of the joint (i.e. the shape around the outline of the star is an oscillatory trace line).

3. Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brayer (US 5,538,059).

Brayer discloses a tire including rim flange support rubbers (18 in fig. 1) molded to or overlapping with the lower sidewall. Further, the edge/end of this layer is considered to form an oscillatory trace line by virtue of the repeating pattern of void areas 24. Although the reference does not explicitly indicate whether the mixes forming the support rubbers 18 and the adjacent rubber layers are different, it would seem from the depiction and description of the layer 18 (i.e. as an additional rim flange support rubber that is depicted and described as separate and distinct from the sidewall) that it would be expected to be formed from a different composition. In any event, it is considered that the ordinary artisan would have found it obvious to form such a

specialized layer from a different composition from the adjacent sidewall rubber layer recognizing the clearly different structural and functional attributes of the two layers.

4. Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Cuthbertson et al. (US 2,789,616) or JP 53-146779 to Mitsubishi or JP 62-6801 to Bridgestone.

Cuthbertson et al. discloses a tire including rubbers 10 and 11 that are lap jointed and in the vulcanized condition, the layer 10 has an edge that ends in an oscillatory trace line in the plane of the joint – note esp. 19 in fig.4. As to claim 7, it is also noted that although this joint is in the sidewall of the tire, it appears that in this reference, the part “10” is formed from the same mixture as the tread and thus the claim requirement for a joint between a *mix* for the tread and a mix for the sidewall is considered to be met. In other words, this claim does not actually require that this joint actually be between the tread and sidewall but rather between mixes for these components. It is noted that this rejection has however not been applied to claims 8-9 as the junction is not considered to be with an edge of the tread but rather between sidewall parts.

JP ‘779 discloses a tire including apparently different color rubbers 1 and 2 that are apparently lap jointed and have an edge that ends in an oscillatory trace line in the plane of the joint – note esp. the joint between the layers 1 and 2 in fig. 2 and the periodic color changes at the joint.

JP ‘801 discloses a tire including rubbers 6 and 7 that are overlapped and in the figs. 5-6 embodiment, the tread mix 7 has an edge that ends in an oscillatory trace line in the plane of the joint by virtue of periodic grooves 9.

5. Claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the closest prior art would teach or render obvious a tire having a tread/sidewall junction configured as defined in these claims and including the constant thickness tread portions of at most 2mm thickness ending in an oscillatory trace line.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

JP 60-38211 to Sumitomo Rubber discloses a tire including a junction between tread and side rubbers as well as periodic or oscillating grooves near the junction (note esp. fig. 8). There is however no suggestion of an edge with an end with an oscillatory trace line as claimed.

JP 10-147113 to Bridgestone discloses a tire including a sidewall recess than can have an oscillatory path (fig. 3b) but is otherwise less relevant than the other art of record.

7. Applicant's arguments filed 10-11-02 have been considered but are moot in view of the new grounds of rejection necessitated by the amendments to the claims.

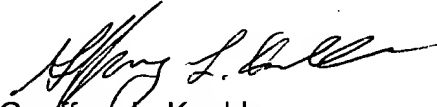
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 703-308-2062. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.


Geoffrey L. Knable
Primary Examiner
Art Unit 1733

G. Knable
December 21, 2002